IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 13.06.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice V.DHANAPALAN

Habeas Corpus Petition No.193 of 2006

Pushparaj @ Settu ... Petitioner

Vs.

1.The State of Tamil Nadu, rep. by its
Secretary to Government,
Prohibition and Excise Department,
Fort St. George, Chennai - 9.

2.The Commissioner of Police,
Greater Chennai,
Egmore, Chennai - 8. ... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to direct the respondents to produce the petitioner i.e. Pushparaj @ Settu, now confined in Central Prison, Chennai before this Court and set at liberty by calling for records pertaining to the order of detention passed by the second respondent dated 01.11.2005 under Ref.No.507/BDFGISV/2005 and quash the same.

For Petitioner : Mr.R.Thanjan
For Respondents : Mr.M.Babu Muthu Meeran
Addl. Public Prosecutor

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O R D E R

(Order of the Court was made by P.SATHASIVAM, J.)

The petitioner by name Pushparaj @ Settu, who was detained as a "Goonda" as contemplated under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 01.11.2005, challenges the same in this Petition.

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2. Heard learned counsel for the petitioner as well as the learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that the detention order is liable to be quashed on the ground of non application of mind on the part of the detaining authority for which he relied on the copy of the First Information Report, which is available at page 27 of the paper book supplied to the detenu and the Accident Register. According to him, though in the FIR it is mentioned as "one person" and even in the Accident Register it is stated "one person", in the statement made by all the persons connected with the crime, it is stated as "known person", the said relevant aspect has not been considered by the detaining authority.

4. In the light of the said submission, we verified the copy of the FIR, Accident Register, statements made by various persons and the detention order passed by the detaining authority. We are satisfied that there is no discrepancy as claimed by the learned counsel for the petitioner. Accordingly, we reject the said contention.

5. The learned counsel appearing for the petitioner further contended that there is no disturbance to public peace or public order as claimed by the detaining authority. Accordingly, the detention order passed by him is liable to be quashed. In respect of the said contention, we have verified all the details. The materials placed before the detaining authority show that prior to the ground case that took place on 22.10.2005, the detenu was involved in four adverse cases even in the year 2005. As a matter of fact in the first adverse case dated 18.02.2005 he was convicted for four months for an offence under Section 379 IPC. Though it is stated that there is no disturbance to the public peace or public order, as rightly pointed out by the learned Additional Public Prosecutor the ground case had taken place in a road junction that too at 10.15 a.m. The statements of M.Kasinathan, E.Reegan, N.Kumar clearly show that the detenu has not only caused injuries /disturbance to an individual person but also threatened others. Their statements also reveal that by the action of the detenu, the nearby persons ran away due to fear. On perusal of those statements and his antecedent as revealed from the adverse cases, we are unable to accept the contention raised by the learned counsel for the petitioner. Further, the materials placed clearly revealed that the public, who were at the spot, have noticed the action of the detenu and ran to safer places out of fear of danger to their lives and properties. The evidence/materials collected by the sponsoring authority, which are available in the paper book supplied to the detenu would vouch the above facts. The materials placed before the detaining authority also show that the detenu has created panic at the scene of occurrence and all these materials were considered by the detaining authority before passing the order of detention. In such circumstances, we are unable to accept the said contention.

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6. In the light of what is stated, we do not find any valid ground for interference. Consequently, the Habeas Corpus Petition fails and the same is dismissed.

raa

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1.The Secretary to Government of Tamil Nadu,
Prohibition and Excise Department,
Fort St. George, Chennai-600 009.

2.The Commissioner of Police,
Greater Chennai,
Egmore, Chennai-8.

3.The Superintendent,
Central Prison, Chennai.
(In duplicate for communication to the petitioner)

4. The Joint Secretary to Government,
Public (Law and Order)
Fort St. George, Chennai-9.

5. The Public Prosecutor,
High Court, Madras.

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SGL(CO)
RVL 20.06.2006

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